

# City of Detroit

## CITY COUNCIL

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**TO:** Honorable City Council

**FROM:** David D. Whitaker  
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**DATE:** April 10, 2006

**RE:** **Polices Surrounding Eviction Procedures**

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--CITY CLERK--

This Honorable Body requested that the Research and Analysis Division (RAD) provide the current and relevant City Code provisions that govern the removal of an evicted tenant's belongings from the street.

The Detroit City Code 1984, as amended, provides at Sec. 22-2-84 that both the owner of the property and the tenant to whom the items belongs are jointly or severally responsible for removal of any items from the property, sidewalk, or street.

Section 22-2-84 of Chapter 22, *Handling of Solid Waste and Prevention of Illegal Dumping*, sets forth an owner or operator's responsibility to remove debris from a site within 72 hours of the time that they knew or should have known that the debris was placed on the site.

If the debris is not removed, a Blight Violation Notice can be written under Section 22-2-88, which requires an owner or occupant "to keep the [premises (including the sidewalk and street)] . . . free from solid waste . . ." The fines for Section 22-2-88(b) are listed in Division 2 entitled "CIVIL FINES FOR VIOLATION," specifically Section 22-1-14 for solid waste and Section 22-1-15 for medical or hazardous waste (copy attached).

It is also permissible for City Council to amend the ordinance to provide that 1) landlords are required to provide a portable container for tenants to transport remaining debris to a city transfer station and 2) the time for removal of the tenant's belongings be reduced to forty-eight (48) hours. However, the drafting of these amendments should be done with the input of the Environmental Affairs and Law Departments.

Should you need anything further, please advise.

DDW/LLS/lis  
Attachment

**DIVISION 2. CIVIL FINES FOR VIOLATIONS\***

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**\*Editor's note:** Ord. No. 35-04, § 1, adopted Nov. 17, 2004, amended former div. 2, §§ 2-1-11--2-1-15, in its entirety to read as herein set out. Former Div. 2 pertained to similar subject matter and derived from Ord. No. 6-03, § 1, 3-19-03; Ord. No. 17-04, § 1, 5-5-04.

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**Sec. 22-1-11. Civil fines for violation of section 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) and 22-2-96 of this Code.**

- (a) A person who violates sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of one hundred dollars (\$100.00) for the first offense.
- (b) A person who violates sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of three hundred dollars (\$300.00) for the second offense.
- (c) A person who violates sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of five hundred dollars (\$500.00) for the third offense.
- (d) A person who violates sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand dollars (\$1,000.00) for the fourth or subsequent offense.
- (e) Each day on which any violation sections 22-2-22, 22-2-41, 22-2-43, 22-2-44, 22-2-45, 22-2-88(a) or 22-2-96 of this Code continues shall constitute a separate violation. The imposition of a fine under this chapter shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(Ord. No. 35-04, § 1, 11-17-04)

**Sec. 22-1-12. Civil fines for violation of sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, and 22-2-92 of this Code.**

- (a) A person who violates section 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of two hundred dollars (\$200.00) for the first offense.
- (b) A person who violates sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of three hundred dollars (\$300.00) for the second offense.
- (c) A person who violates sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of five hundred dollars (\$500.00) for the third offense.
- (d) A person who violates sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49,

22-2-61, or 22-2-92 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand dollars (\$1,000.00) for the fourth or subsequent offense.

(e) Each day on which any violation of sections 22-2-17, 22-2-18, 22-2-21(b), 22-2-42, 22-2-48, 22-2-49, 22-2-61, or 22-2-92 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(Ord. No. 35-04, § 1, 11-17-04)

**Sec. 22-1-13. Civil fines for violation of sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, and 22-3-3 of this Code.**

(a) A person who violates sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of one thousand five hundred dollars (\$1,500.00) for the first offense.

(b) A person who violates sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of two thousand five hundred dollars (\$2,500.00) for the second offense.

(c) A person who violates sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of five thousand dollars (\$5,000.00) for the third offense.

(d) A person who violates sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code is responsible for a blight violation and is subject to a civil fine of ten thousand dollars (\$10,000.00) for the fourth or subsequent offense.

(e) Each day on which any violation of sections 22-2-19, 22-2-21(a), 22-2-24, 22-2-38, 22-2-91, 22-2-93, 22-3-1, 22-3-2, or 22-3-3 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination, the violator may be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(Ord. No. 35-04, § 1, 11-17-04)

**Sec. 22-1-14. Civil fines for violation of sections 22-2-83(b), (c) and (d), 22-2-87, 22-2-88 (b) and (c), 22-2-96 and 22-2-97 of this Code regarding solid waste except for medical waste and hazardous waste; factors to be considered by hearings officer when determining fine; burden of proof for factors upon violator.**

(a) A person who violates any of the provisions of Sections 22-2-83(b), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is less than five (5) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of two hundred dollars (\$200.00).

(b) A person who violates any of the provisions of sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is five (5) or more cubic feet in volume but less than ten (10) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of five hundred (\$500.00).

(c) A person who violates any of the provisions of Sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is ten (10) or more cubic feet in volume but less than twenty (20) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of one thousand dollars (\$1,000.00).

(d) A person who violates any of the provisions of sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is twenty (20) or more cubic feet in volume but less than fifty (50) cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of two thousand five hundred dollars (\$2,500.00).

(e) A person who violates any of the provisions of sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is fifty (50) or more cubic feet in volume, is responsible for a blight violation and, for the first violation, is subject to a civil fine of three thousand five hundred dollars (\$3,500.00).

(f) For a repeat or subsequent blight violation under sections 22-2-83(b), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is less than five (5) cubic feet in volume, a person shall be subject to a civil fine of not less than two hundred dollars (\$200.00) but not more than five hundred dollars (\$500.00).

(g) For a repeat or subsequent blight violation under sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is five (5) or more cubic feet in volume but less than ten (10) cubic feet in volume, a person shall be subject to a civil fine of not less than five hundred dollars (\$500.00) but not more than one thousand dollars (\$1,000.00).

(h) For a repeat or subsequent blight violation under sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is ten (10) or more cubic feet in volume but less than twenty (20) cubic feet in volume, a person shall be subject to a civil fine of not less than one thousand dollars (\$1,000.00) but not more than two thousand five hundred dollars (\$2,500.00).

(i) For a repeat or subsequent blight violation under sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of solid waste is twenty (20) or more cubic feet in volume but less than fifty (50) cubic feet in volume, a person shall be subject to a civil fine of not less than three thousand five hundred dollars (\$3,500.00) but not more than five thousand dollars (\$5,000.00).

(j) For a repeat or subsequent blight violation under sections 22-2-83(c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code, where the amount of the solid waste is fifty (50) or more cubic feet in volume, a person shall be subject to a civil fine of not less than three thousand five hundred dollars (\$3,500.00) but not more than ten thousand dollars (\$10,000.00).

(k) Each day on which any violation of any of the provision of sections 22-2-83(b), (c) and (d), 22-2-87, 22-2-88(b) and (c), 22-2-96 or 22-2-97 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation and, upon a blight violation determination may be subject to a civil fine for each day the violation continued. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(l) When determining the amount of a civil fine for a blight violation that is issued under subsection (f), (g), (h), (i) or (j) of this section, the hearings officer shall consider all of the following factors:

- (1) The type of solid waste;
- (2) The nature of the violation;

- (3) The duration of the violation;
- (4) The preventability of the violation;
- (5) The potential and actual effect on the surrounding neighborhood or the environment;
- (6) The economic benefit to the violator;
- (7) The violator's recalcitrance or efforts to comply with law; and
- (8) The economic impact of the fine on the violator.

These factors shall only be considered where the hearings officer determines that the violator has made all good faith efforts to correct and terminate the violation. The violator shall have the burden of proof regarding the presence and degree of any factor to be considered by the hearings officer in determining the amount of the fine. In each case, the fine shall be set within the range that is delineated in subsection (f), (g), (h), (i) or (j) of this section for the corresponding amount of solid waste.

(Ord. No. 35-04, § 1, 11-17-04)

**Sec. 22-1-15. Civil fines penalties for violation of sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), and 22-2-97 of this Code regarding medical waste and hazardous waste.**

(a) A person who violates any of the provisions of sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code, where the medical waste or hazardous waste is less than one (1) cubic foot in volume, is responsible for a blight violation and is subject to a civil fine of five thousand dollars (\$5,000.00).

(b) A person who violates any of the provisions of sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code, where the medical waste or hazardous waste is one (1) cubic foot or more in volume, is responsible for a blight violation and is subject to a civil fine of ten thousand dollars (\$10,000.00).

(c) A person responsible for a repeat or subsequent blight violation under sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code is subject to a civil fine of ten thousand dollars (\$10,000.00).

(d) Each day on which a violation of any of the provisions of sections 22-2-83(e) and (f), 22-2-85, 22-2-86, 22-2-87, 22-2-88, 22-2-94, 22-2-96(a), or 22-2-97 of this Code continues shall constitute a separate violation. The imposition of a fine under this section shall not be construed to excuse or to permit the continuation of any violation, and upon a blight violation determination, shall be subject to a civil fine for each day the violation continues. The determination as to whether an act or a failure to act is a continuing violation is within the discretion of the hearings officer.

(Ord. No. 35-04, § 1, 11-17-04)

Secs. 22-1-16--22-1-30. Reserved.